

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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OSCAR GARNER,

Plaintiff,

v.

PAUL SUMNICHT, BELINDA SCHRUBBE,  
CYNTHIA THORPE and MARY GORSKE,

Defendants.

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ORDER

11-cv-829-slc

Judgment was entered dismissing this case on September 6, 2013 after I granted summary judgment in favor of defendants and declined to exercise supplemental jurisdiction over plaintiff Oscar Garner's state law claims. Now plaintiff has filed a notice of appeal. Plaintiff has not paid the \$455 appeal filing fee so I will construe his notice to include a request to proceed *in forma pauperis* on appeal.

Plaintiff's request for leave to proceed *in forma pauperis* on appeal is governed by the 1996 Prison Litigation Reform Act. This means that this court must determine first whether plaintiff's request must be denied either because he has three strikes against him under 28 U.S.C. § 1915(g) or because the appeal is not taken in good faith. Plaintiff does not have three strikes against him and I do not intend to certify that his appeal is not taken in good faith.

The only other hurdle to proceeding on the appeal *in forma pauperis* is the requirement that plaintiff make an initial partial payment of the filing fee that has been calculated from a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. 28 U.S.C. § 1915(a)(2). Plaintiff has not submitted the necessary trust fund account statement. Until he does so, I cannot determine whether he is indigent and, if he is, the amount of his initial partial payment.

Accordingly, IT IS ORDERED that plaintiff may have until October 18, 2013, in which to submit a certified copy of his trust fund account statement for the six-month period from approximately March 23, 2013 to approximately September 30, 2013. If, by October 18, 2013, plaintiff fails to submit the required trust account statement or show cause for his failure to do so, then I will deny his request for leave to proceed *in forma pauperis* on the ground that he has failed to show that he is entitled to indigent status on appeal.

Entered this 30<sup>th</sup> day of September, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge